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LEGAL DEPARTMENT

US EPA RECORDS CENTER REGION 5



485163

June 1, 1993

HS-6J

Joseph P. Dufficy

Acting Chief MN/OH Remedial Response Branch

Office of Superfund

USEPA

Region 5

77 West Jackson Blvd.

Chicago, IL 60604-3590

Re: Powell Road Landfill, Huber Heights, Ohio

Dear Mr. Dufficy:

Enclosed for return to you is a copy of a PRP letter for "Turner DP&L". This was delivered to The Dayton Power and Light Company, along with DP&L's own PRP letter. We are unfamiliar with any organization named Turner DP&L.

Sincerely,

Edward N. Rizer

Enclosure

ER1384

RECEIVED  
JUN 07 1993

REMEDIAL &  
ENFORCEMENT  
RESPONSE BRANCH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

MAY 21 1993

HS-6J

**GENERAL NOTICE LETTER**  
**URGENT LEGAL MATTER**  
**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Turner DP & L  
c/o Dayton Power & Light  
Dayton, OH

RE: Powell Road Landfill, Huber Heights, Ohio  
General Notice of Potential Liability

Dear Sir or Madam:

This letter notifies you of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("CERCLA"), that you may have incurred with respect to the above referenced Site. This letter also informs you of potential response activities at the Site, which you may be asked to perform or finance at a later date.

**NOTICE OF POTENTIAL LIABILITY**

The United States Environmental Protection Agency ("U.S. EPA") has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the above-referenced Site. U.S. EPA has spent, or is considering spending public funds to investigate and control these releases. This action will be taken by U.S. EPA pursuant to CERCLA, unless U.S. EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the facility, persons who generated the hazardous substances, and persons who were involved in the transport, treatment or disposal of the hazardous substances at the facility.

U.S. EPA has evaluated information in connection with the investigation of the Site. Based on this information, U.S. EPA believes that you may be a potentially responsible party (PRP) with respect to this Site.

Under Sections 107(a) and 106(a) of CERCLA, potentially liable parties may be ordered to perform response actions deemed necessary by U.S. EPA to protect the public health, welfare, or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to expenditures for conducting Remedial Investigation/Feasibility Study (RI/FS), conducting a Remedial Design and Remedial Action (RD/RA), and other investigation, planning, response, oversight and enforcement activities. In addition, responsible parties may be required to pay for damages for injury to, destruction of, or loss of natural resources, including the cost of assessing such damages.

In accordance with CERCLA, U.S. EPA and Waste Management of North America, Inc. have already undertaken certain actions and incurred certain costs in response to conditions at the Site. These response activities relate to the RI/FS at the Site.

#### SPECIAL NOTICE AND NEGOTIATION MORATORIUM

You may receive an additional notice from U.S. EPA in the future. That notice would either inform you that U.S. EPA is using the CERCLA Section 122(e) special notice procedures to formally negotiate the terms of a consent order or consent decree to conduct or finance Site response activities, or it would inform you that U.S. EPA is not using such procedures pursuant to Section 122(a). If U.S. EPA does not use Section 122(e) special notice procedures, the notice would specify why the special notice procedures were not appropriate in this case.

Under Section 122(e), U.S. EPA has the discretionary authority to use the special notice procedures if U.S. EPA determines that such procedures would facilitate an agreement between U.S. EPA and the PRPs and would expedite remedial action at the Site. Use of the special notice procedures triggers a moratorium on certain U.S. EPA activities at the Site. The purpose of this moratorium is to provide a period of time when PRPs and U.S. EPA may enter into formal negotiations for PRP conduct or financing of the response activities at the Site.

The initial moratorium for the RD/RA lasts for 60 days after the special notice. If U.S. EPA determines that an offer to perform or finance the activities is submitted by the PRPs within those 60 days, and that the offer is a good faith offer, a 60 day extension is provided for by statute for further negotiations.

If U.S. EPA determines that a good faith offer has not been submitted within the moratorium period, U.S. EPA may terminate negotiations under Section 122(e)(4) of CERCLA. EPA may then commence such cleanup or enforcement action as it deems appropriate. In the absence of an agreement between the parties to perform or finance the necessary cleanup activities, U.S. EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site expenditures. Alternatively, U.S. EPA may issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities, or may commence civil litigation pursuant to Section 106(a) of CERCLA to obtain similar relief. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, under Section 106(b) of CERCLA, or in the imposition of treble damages under Section 107(c)(3).

#### SITE RESPONSE ACTIVITIES

At present, U.S. EPA is planning to conduct the following activities at the Site:

Remedial Design and Remedial Action (RD/RA) to design and implement the remedial action selected and approved by U.S. EPA for the Site.

#### INFORMATION TO ASSIST RESPONSIBLE PARTIES

U.S. EPA would like to encourage good faith negotiations between the PRPs and U.S. EPA, as well as among the PRPs. To assist PRPs in preparing a proposal and in negotiating with U.S. EPA concerning this matter, U.S. EPA is providing a list of the names of the PRPs to whom general notice of potential liability has been sent or is being sent. Inclusion on, or exclusion from, the list does not constitute a final determination by U.S. EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site.

U.S. EPA will also be holding a meeting at the date and time specified below to discuss general information about the Site, to discuss the reimbursement of U.S. EPA for costs incurred to date and to discuss the voluntary performance or financing of the response activities which U.S. EPA has determined or will determine are required at the facility:

DATE: June 9, 1993

TIME: 9:00 A.M.

LOCATION: Dayton Airport Inn  
Dayton International Airport  
Vandalia, OH

ATTENDING ON BEHALF OF THE UNITED STATES:

Catherine Garypie  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
77 W. Jackson CM-3T  
Chicago, IL 60604

Patricia Cosgrove  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
77 W. Jackson CM-3T  
Chicago, IL 60604

Jan Bartlett  
Remedial Project Manager  
Office of Superfund  
U.S. Environmental Protection Agency  
77 W. Jackson HSRM-6J  
Chicago, IL 60604

PRP STEERING COMMITTEE

U.S. EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is critical for successful negotiations with U.S. EPA.

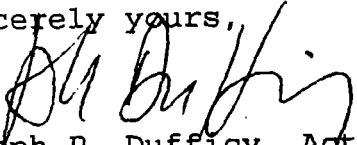
PRP RESPONSE AND EPA CONTACT

Due to the nature of the problem at this facility and the attendant legal ramifications, U.S. EPA strongly encourages you to attend the informational meeting scheduled for the date and time indicated above. U.S. EPA also strongly encourages the PRPs to meet amongst themselves immediately following the informational meeting to discuss PRP organizational and response activities.

If you have any questions pertaining to this letter, please direct your attorney to contact Catherine Garypie, Assistant

Regional Counsel, at 312/886-7936, or Patricia Cosgrove,  
Assistant Regional Counsel, at 312/886-6722.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Joe Dufficy", written over the typed name.

Joseph P. Dufficy, Acting Chief  
MN/OH Remedial Response Branch  
Office of Superfund

LIST OF POTENTIALLY RESPONSIBLE PARTIES ISSUED THIS GENERAL  
NOTICE LETTER FOR POWELL ROAD LANDFILL SITE:

American Lubricants  
Angel Manufacturing  
Blaylock Trucking  
Brainard Industries  
Butler Township  
Capital Cleaning Company  
City of Dayton  
City of Huber Heights  
City of Springfield  
City of Vandalia  
Clark County  
DAP  
Dayton Overhead Door  
Dayton Power & Light (DP & L)  
Dayton Sash & Door  
Dayton Tire Company  
Fox's Cleaners  
Frank's Radiator  
Globe Industries  
Greene County  
GSX  
Huffman Manufacturing  
Janitorial Supplies  
Laidlaw  
Montgomery County  
N & N Commercial Waste Disposal  
NCR  
Plibrico Company  
Portland Cement Company  
Sanitary Disposal Systems  
Scholten Construction Co.  
Sherwin Williams  
Tru-Fab, Inc.  
Turner DP & L  
Van Dyne Crotty  
Wright Patterson Air Force Base  
Wright State University

LIST OF POTENTIALLY RESPONSIBLE PARTIES PREVIOUSLY ISSUED GENERAL  
NOTICE LETTER FOR POWELL ROAD LANDFILL SITE:

Frank Barger  
Chrysler  
General Motors  
Montgomery County North Reduction Plant  
Moran Paint Company  
Protective Treatment, Inc.  
Waste Management, Inc.